

Internal Revenue Service

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CC:CORP:B06

PLR-136494-08

Date:

October 16, 2008

TY:

LEGEND

Distributing =

Controlled =

Business Y Newco =

Business Z Newco =

Sub1 =

Sub2 =

Sub3 =

PLR-136494-08

2

Sub4 =

Sub5 =

Sub6 =

Sub7 =

Sub8 =

Sub9 =

Sub10 =

Sub11 =

Sub12 =

Sub13 =

F-Sub1 =

PLR-136494-08

3

F-Sub2 =

F-Sub3 =

F-Sub4 =

F-Sub5 =

LLC1 =

LLC2 =

LLC3 =

LLC4 =

Individual A =

Individual B =

State V =

Country W =

Business X =

Business Y =

Business Z =

a =

b =

c =

d =

e =

f =

g =

h =

Date1 =

Dear :

This is in response to a letter dated August 21, 2008, submitted on your behalf by your authorized representatives, requesting rulings on the federal income tax consequences of a proposed transaction. The information submitted for consideration is summarized below.

The rulings contained in this letter are based on facts and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by the appropriate party. This office has not verified any of the materials submitted in support of the request for rulings. Verification of the information, representations, and other data may be required as part of the audit process. Moreover, this office has not reviewed any information pertaining to, and has made no determination regarding whether the distributions (as defined below): (i) satisfies the business purpose requirement of Treas. Reg. §1.355-2(b); (ii) is being used principally as a device for the distribution of the earnings and profits of the distributing corporation, the controlled corporation, or both (see Section 355(a)(1)(B) of the Internal Revenue Code (the "Code") and Treas. Reg. §1.355-2(d)); or (iii) is part of a plan (or series of related transactions) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50-percent or greater interest in the distributing corporation or the controlled corporation (see Section 355(e) and Treas. Reg. §1.355-7).

SUMMARY OF FACTS

Distributing, directly and indirectly, owns the stock of multiple domestic and foreign subsidiaries (collectively hereafter referred to as the “Distributing Affiliated Group”), and is the common parent of an affiliated group of corporations that, with its eligible members, files a consolidated federal income tax return (hereafter referred to as the “Distributing Consolidated Group”). The Distributing Affiliated Group is engaged in Business X, Business Y, and Business Z businesses, among others.

As of Date1, Distributing had approximately a stockholders of record whom owned various classes of Distributing’s common and preferred stock. Although the various classes of Distributing stock are widely held, there is no public market for the stock. Distributing stockholders consist of the Distributing Affiliated Group’s officers, employees, and certain non-employee directors, who own their stock individually, through the Distributing Affiliated Group’s Restricted Stock Plan, and/or as part of the Distributing Affiliated Group’s Employee Stock Ownership Plan and Trust (the “ESOP”).

As of Date1, the b% common stock shareholders and/or shareholder groups of Distributing consisted of Individual A, Individual B, the ESOP, and other Distributing Affiliated Group’s officers, employees, and certain non-employee directors.

Distributing owns all of the outstanding stock of Sub1, Controlled, Sub2, Sub3, Sub4, Sub5, Sub6, and Sub7, and owns c% of the single class of outstanding stock of Sub8 and d% of the single class of outstanding stock of Sub9.

Sub1 owns all of the outstanding stock of Sub10 and F-Sub1, a Country W corporation, and owns e% of the single class of outstanding stock of Sub11 and f% of the single class of outstanding stock of Sub12. Sub1 also owns all of the membership interests of LLC1 and LLC2, each single member limited liability companies (“SMLLC”) disregarded for federal tax purposes.

Sub12 owns all of the outstanding stock of Sub13. LLC1 owns all of the membership interests of LLC3, a SMLLC disregarded for federal tax purposes. F-Sub1 owns all of the issued outstanding common stock of F-Sub2, a Country W corporation. F-Sub2 owns g% of the single class of outstanding stock of F-Sub3, a Country W corporation.

Sub8 owns all of the outstanding stock of F-Sub4, a Country W corporation. Sub9 owns all of the outstanding stock of F-Sub5, a Country W corporation, and all of the membership interest of LLC4, a SMLLC disregarded for federal tax purposes.

The legal entities engaged in Business X business include Sub1 and certain of its directly and indirectly wholly owned subsidiaries including LLC1, LLC2, LLC3, F-Sub1, and F-Sub2.

The legal entities engaged in Business Y business include Sub9, Sub10, Sub11, Sub12, Sub13, LLC4, F-Sub 3 and F-Sub5.

The legal entities engaged in Business Z business include Sub1, Sub2, Sub3, Sub4, Sub5, Sub6, Sub7, Sub8, LLC2, LLC3, F-Sub2, and F-Sub4.

Financial information has been submitted indicating that the Business X business (as conducted by Sub1), the Business Y business (as conducted by Sub10, Sub11, and Sub12), and the Business Z business (as conducted by Sub1, LLC1, LLC2, and LLC3), each has had gross receipts and operating expenses representing the active conduct of a trade or business for each of the past five years.

Distributing Affiliated Group's management has determined that the consolidation and overall separation of the Business Y and Business Z businesses from the Business X business will serve a number of corporate business purposes.

PROPOSED TRANSACTION

The following transactions (collectively, the "Proposed Transaction") is intended to facilitate the consolidation and overall separation of the Business Y and Business Z businesses from the Business X business.

1. Certain members of the Distributing Consolidated Group participating in the Proposed Transaction will satisfy all intercompany balances outstanding prior to the distribution of Controlled stock.
2. Sub1 will form a wholly owned State V corporation, Business Y Newco. Sub1 will contribute all of the stock of various entities that are engaged in the Business Y business, Sub10, Sub11, and Sub12, to Business Y Newco in actual or constructive exchange for additional shares of Business Y Newco stock. Sub1 will distribute all of the stock of Business Y Newco to its sole shareholder, Distributing (collectively the "Business Y Newco Distribution").
3. Sub1, through LLC2, (a disregarded entity) will form a new wholly owned State V corporation, Business Z Newco. Sub1 will transfer the Business Z business assets that it owns directly, and the Business Z assets from LLC2 and LLC3 that it owns indirectly, as well as certain operating liabilities associated with the Business Z business assets, to Business Z Newco in actual or constructive exchange for additional shares of Business Z Newco stock. Sub1 will distribute all of the stock of Business Z Newco to its sole shareholder, Distributing (collectively the "Business Z Newco Distribution").
4. Distributing will contribute the stock of the various entities conducting the Business Y and Business Z businesses, including Business Y Newco, Business

Z Newco, Sub2, Sub3, Sub4, Sub5, Sub6, Sub7, Sub8, and Sub9, to Controlled in actual or constructive exchange for additional shares of Controlled stock (the “Controlled Contribution”) and Controlled will assume approximately \$h of Distributing debt allocable to the Business Y and Business Z businesses (the “Debt Assumption”).

5. Controlled will contribute the stock of Business Y Newco to Sub9, and the stock of Business Z Newco, Sub2, Sub3, Sub4, Sub5, Sub6, and Sub7 to Sub8, in actual or constructive exchange for additional shares of Sub9 and Sub8 stock, respectively (the “Realignment Contributions”).
6. F-Sub5 will acquire the g% interest of F-Sub3 from F-Sub2. This transaction will be a taxable purchase of the F-Sub3 interests (the “First Taxable Purchase”).
7. F-Sub4 will acquire certain Business Z business assets held by F-Sub2. This acquisition will be a taxable purchase of the Business Z business assets (the “Second Taxable Purchase”).
8. Distributing will distribute all of the stock of Controlled to certain of its shareholders in exchange for some or all of their shares of Distributing stock (the “Controlled Distribution”).

REPRESENTATIONS

The following representations, as required by Rev. Proc. 96-30 (as modified by Rev. Proc. 2003-48), are made with respect to the following:

Business Y Newco Distribution

- (a) The indebtedness, if any, owed by Business Y Newco to Sub1 immediately after the Business Y Newco Distribution will not constitute stock or securities.
- (b) No part of the consideration to be distributed by Sub1 to Distributing will be received by Distributing as a creditor, employee, or in any capacity other than that of a shareholder of Sub1.
- (c) Neither Business Y Newco nor any entity conducting the Business Y business which will be contributed to Business Y Newco was acquired during the five year period ending on the date of the Business Y Newco Distribution in a transaction in which gain or loss was recognized (or treated as recognized) in whole or in part.
- (d) In applying Section 355(b)(2)(A) regarding the active conduct of a trade or business, Sub1 and Business Y Newco will treat all members of their respective

separate affiliated groups (the “Sub1 SAG” and “Business Y Newco SAG”, respectively) as defined in Section 355(b)(3)(B), as one corporation.

- (e) Each of Sub10, Sub11, and Sub12, immediately after the Business Y Newco Distribution, will be affiliated with Business Y Newco in a manner that satisfies Section 1504(a), without regard to Section 1504(b).
- (f) The five years of financial information submitted on behalf of the Business X business directly conducted by Sub1 is representative of its present operations, and with regard to such operations, there have been no substantial operational changes since the date of the last financial statements submitted.
- (g) The five years of financial information submitted on behalf of the Business Y business conducted by Sub12 is representative of its present operations, and with regard to such operations, there have been no substantial operational changes since the date of the last financial statements submitted.
- (h) Following the Business Y Newco Distribution, Sub1 and Sub12 will each continue, independently and with its separate employees, the active conduct of its business conducted by Sub1 and Sub12, respectively, prior to the Proposed Transaction.
- (i) The Business Y Newco Distribution will be carried out to facilitate the Controlled Distribution. The Business Y Newco Distribution is motivated, in whole or in substantial part, by this business purpose.
- (j) The Business Y Newco Distribution is not used principally as a device for the distribution of the earnings and profits of Sub1 or Business Y Newco or both.
- (k) For purposes of Section 355(d), immediately after the Business Y Newco Distribution, no person (determined after applying Section 355(d)(7)) will hold stock possessing 50% or more of the total combined voting power of all classes of Sub1 stock entitled to vote, or 50% or more of the total value of shares of all classes of Sub1 stock, that was acquired by purchase (as defined in Section 355(d)(5) and (8)) during the 5-year period (determined after applying Section 355(d)(6)) ending on the date of the Business Y Newco Distribution.
- (l) For purposes of Section 355(d), immediately after the Business Y Newco Distribution, no person (determined after applying Section 355(d)(7)) will hold stock possessing 50% or more of the total combined voting power of all classes of Business Y Newco stock entitled to vote, or 50% or more of the total value of shares of all classes of Business Y Newco stock, that was either (i) acquired by purchase (as defined in Section 355(d)(5) and (8)) during the 5-year period (determined after applying Section 355(d)(6)) ending on the date of the Business

- Y Newco Distribution or (ii) attributable to distributions on Sub1 stock that was acquired by purchase (as defined in Section 355(d)(5) and (8)) during the 5-year period (determined after applying Section 355(d)(6)) ending on the date of the Business Y Newco Distribution.
- (m) The Business Y Newco Distribution is not part of a plan or series of related transactions (within the meaning of Reg. §1.355-7) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50% or greater interest (within the meaning of Section 355(d)(4)) in Sub1 or Business Y Newco (including any predecessor or successor of any such corporation).
 - (n) The total fair market value of the assets transferred to Business Y Newco by Sub1 will equal or exceed the aggregate adjusted basis of the transferred assets.
 - (o) The total fair market value of the assets transferred to Business Y Newco by Sub1 will exceed the sum of the total liabilities assumed, if any, (within the meaning of section 357(d)) by Business Y Newco.
 - (p) The total adjusted basis of the assets transferred to Business Y Newco by Sub1 will exceed the total liabilities assumed, if any, (within the meaning of Section 357(d)) by Business Y Newco.
 - (q) The liabilities, if any, assumed (within the meaning of Section 357(d)) by Business Y Newco and the liabilities to which the transferred assets are subject were incurred in the ordinary course of business and are associated with the assets being transferred.
 - (r) Sub1 neither accumulated its receivables nor made extraordinary payment of its payables in anticipation of the Proposed Transaction.
 - (s) Except for indebtedness that may be created in the ordinary course of business or in connection with the Ancillary Agreements, no indebtedness will exist between Sub1 and Business Y Newco at the time of, or subsequent to, the Business Y Newco Distribution.
 - (t) Immediately before the Business Y Newco Distribution, items of income, gain, loss, deduction, and credit will be taken into account as required by the applicable intercompany transaction regulations (see Reg. §§1.1502-13 and 1.1502-14 in effect before the publication of T.D. 8597, 1995-2 C.B. 147, and as currently in effect; Reg. §1.1502-13 as published by T.D. 8597). Further, any excess loss account of a member in the stock of another member that is required to be taken into account by Reg. §1.1502-19 will be included in income, as appropriate.

- (u) Payments made in connection with all continuing transactions, if any, between Sub1 and Business Y Newco will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.
- (v) Neither Sub1 nor Business Y Newco is an investment company as defined in Section 368(a)(2)(F)(iii) and (iv).
- (w) Immediately after the Business Y Newco Distribution (taking into account Section 355(g)(4)), either (i) neither Sub1 nor Business Y Newco will be a disqualified investment corporation (within the meaning of Section 355(g)(2)), or (ii) no person will hold a 50% or more interest (within the meaning of Section 355(g)(3)) in the stock of Sub1 or Business Y Newco that such person did not hold immediately before the Business Y Newco Distribution.
- (x) Sub1 and Business Y Newco will each pay their own expenses, if any, incurred in connection with the Proposed Transaction.

Business Z Newco Distribution

- (y) The indebtedness, if any, owed by Business Z Newco to Sub1 immediately after the Business Z Newco Distribution will not constitute stock or securities.
- (z) No part of the consideration to be distributed by Sub1 to Distributing will be received by Distributing as a creditor, employee, or in any capacity other than that of a shareholder of Sub1.
- (aa) Neither Business Z Newco, nor the Business Z business assets which will be transferred to Business Z Newco, were acquired during the five year period ending on the date of the Business Z Newco Distribution in a transaction in which gain or loss was recognized (or treated as recognized) in whole or in part, other than in the ordinary course of conducting Business Z.
- (bb) In applying Section 355(b)(2)(A) regarding the active conduct of a trade or business, Sub1 and Business Z Newco will treat all members of their respective separate affiliated groups (the "Sub1 SAG" and "Business Z Newco SAG", respectively) as defined in Section 355(b)(3)(B), as one corporation.
- (cc) The five years of financial information submitted on behalf of the Business X business directly conducted by Sub1 is representative of its present operations, and with regard to such operations, there have been no substantial operational changes since the date of the last financial statements submitted.
- (dd) The five years of financial information submitted on behalf of the Business Z business that will be transferred to Business Z Newco is representative of its present operations, and with regard to such operations, there have been no

substantial operational changes since the date of the last financial statements submitted.

- (ee) Following the Business Z Newco Distribution, Sub1 and Business Z Newco will each continue, independently and with its separate employees, the active conduct of its business conducted prior to the Proposed Transaction.
- (ff) The Business Z Newco Distribution will be carried out to facilitate the Controlled Distribution. The Business Z Newco Distribution is motivated, in whole or in substantial part, by this business purpose.
- (gg) The Business Z Newco Distribution is not used principally as a device for the distribution of the earnings and profits of Sub1 or Business Z Newco or both.
- (hh) For purposes of Section 355(d), immediately after the Business Z Newco Distribution, no person (determined after applying Section 355(d)(7)) will hold stock possessing 50% or more of the total combined voting power of all classes of Sub1 stock entitled to vote, or 50% or more of the total value of shares of all classes of Sub1 stock, that was acquired by purchase (as defined in Section 355(d)(5) and (8)) during the 5-year period (determined after applying Section 355(d)(6)) ending on the date of the Business Z Newco Distribution.
- (ii) For purposes of Section 355(d), immediately after the Business Z Newco Distribution, no person (determined after applying Section 355(d)(7)) will hold stock possessing 50% or more of the total combined voting power of all classes of Business Z Newco stock entitled to vote, or 50% or more of the total value of shares of all classes of Business Z Newco stock, that was either (i) acquired by purchase (as defined in Section 355(d)(5) and (8)) during the 5-year period (determined after applying Section 355(d)(6)) ending on the date of the Business Z Newco Distribution or (ii) attributable to distributions on Sub1 stock that was acquired by purchase (as defined in Section 355(d)(5) and (8)) during the 5-year period (determined after applying Section 355(d)(6)) ending on the date of the Business Z Newco Distribution.
- (jj) The Business Z Newco Distribution is not part of a plan or series of related transactions (within the meaning of Reg. §1.355-7) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50% or greater interest (within the meaning of Section 355(d)(4)) in Sub1 or Business Z Newco (including any predecessor or successor of any such corporation).
- (kk) The total fair market value of the assets transferred to Business Z Newco by Sub1 will equal or exceed the aggregate adjusted basis of the transferred assets.

- (ll) The total fair market value of the assets transferred to Business Z Newco by Sub1 will exceed the sum of the total liabilities assumed (within the meaning of Section 357(d)) by Business Z Newco.
- (mm) The total adjusted basis of the assets transferred to Business Z Newco by Sub1 will exceed the total liabilities assumed (within the meaning of Section 357(d)) by Business Z Newco.
- (nn) The liabilities assumed (within the meaning of Section 357(d)) by Business Z Newco and the liabilities to which the transferred assets are subject were incurred in the ordinary course of business and are associated with the assets being transferred.
- (oo) Sub1 neither accumulated its receivables nor made extraordinary payment of its payables in anticipation of the Proposed Transaction.
- (pp) Except for indebtedness that may be created in the ordinary course of business or in connection with the Ancillary Agreements, no indebtedness will exist between Sub1 and Business Z Newco at the time of, or subsequent to, the Business Z Newco Distribution.
- (qq) Immediately before the Business Z Newco Distribution, items of income, gain, loss, deduction, and credit will be taken into account as required by the applicable intercompany transaction regulations (see Reg. §§1.1502-13 and 1.1502-14 in effect before the publication of T.D. 8597, 1995-2 C.B. 147, and as currently in effect; Reg. §1.1502-13 as published by T.D. 8597). Further, any excess loss account of a member in the stock of another member that is required to be taken into account by Reg. §1.1502-19 will be included in income, as appropriate.
- (rr) Payments made in connection with all continuing transactions, if any, between Sub1 and Business Z Newco will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.
- (ss) Neither Sub1 nor Business Z Newco is an investment company as defined in Section 368(a)(2)(F)(iii) and (iv).
- (tt) Immediately after the Business Z Newco Distribution (taking into account Section 355(g)(4)), either (i) neither Sub1 nor Business Z Newco will be a disqualified investment corporation (within the meaning of Section 355(g)(2)), or (ii) no person will hold a 50% or more interest (within the meaning of Section 355(g)(3)) in the stock of Sub1 or Business Z Newco that such person did not hold immediately before the Business Z Newco Distribution.

- (uu) Sub1 and Business Z Newco will each pay their own expenses, if any, incurred in connection with the Proposed Transaction.

Controlled Contribution and Controlled Distribution

- (vv) The indebtedness, if any, owed by Controlled to Distributing immediately after the Controlled Distribution will not constitute stock or securities.
- (ww) The fair market value of the Controlled stock to be received by certain Distributing shareholders in the Controlled Distribution will approximately equal the fair market value of the Distributing stock to be surrendered by such Distributing shareholders in the exchange.
- (xx) No part of the consideration to be distributed by Distributing to certain Distributing shareholders will be received by such Distributing shareholders as a creditor, employee, or in any capacity other than that of a shareholder of Distributing.
- (yy) Neither Sub12, Business Z Newco nor any of the Business Z business assets transferred to Business Z Newco were acquired during the five year period ending on the date of the Controlled Distribution in a transaction in which gain or loss was recognized (or treated as recognized) in whole or in part, other than in the ordinary course of conducting Business Z.
- (zz) In applying Section 355(b)(2)(A) regarding the active conduct of a trade or business, Distributing and Controlled will treat all members of their respective separate affiliated groups (the "Distributing SAG" and "Controlled SAG", respectively) as defined in Section 355(b)(3)(B), as one corporation.
- (aaa) Sub1 is, and immediately after the Controlled Distribution will be, affiliated with Distributing in a manner that satisfies Section 1504(a), without regard to Section 1504(b).
- (bbb) Each of Sub12 and Business Z Newco, will be, immediately after the Controlled Distribution, affiliated with Controlled in a manner that satisfies Section 1504(a), without regard to Section 1504(b).
- (ccc) The five years of financial information submitted on behalf of the Business X business conducted by Sub1 is representative of its present operations, and with regard to such operations, there have been no substantial operational changes since the date of the last financial statements submitted.
- (ddd) The five years of financial information submitted on behalf of Sub12 and Business Z Newco is representative each of their present operations, and with

regard to such operations, there have been no substantial operational changes since the date of the last financial statements submitted.

- (eee) Following the Controlled Distribution, Sub1 (member of the Distributing SAG) and members of the Controlled SAG, will each continue, independently and with its separate employees, the active conduct of its Business X business conducted by Sub1 or the Business Y and Business Z businesses conducted by members of the Controlled SAG prior to the Proposed Transaction.
- (fff) The Controlled Distribution will be carried out for the following corporate business purposes: (i) allow the Distributing Affiliated Group's management to focus on their respective business lines; (ii) allow Distributing to maintain its credit rating; and (iii) provide direct access to capital for the Business Y and Business Z businesses. The Controlled Distribution is motivated, in whole or in substantial part, by one or more of these business purposes.
- (ggg) The Controlled Distribution is not used principally as a device for the distribution of the earnings and profits of Distributing or Controlled or both.
- (hhh) For purposes of Section 355(d), immediately after the Controlled Distribution, no person (determined after applying Section 355(d)(7)) will hold stock possessing 50% or more of the total combined voting power of all classes of Distributing stock entitled to vote, or 50% or more of the total value of shares of all classes of Distributing stock, that was acquired by purchase (as defined in Section 355(d)(5) and (8)) during the 5-year period (determined after applying Section 355(d)(6)) ending on the date of the Controlled Distribution.
- (iii) For purposes of Section 355(d), immediately after the Controlled Distribution, no person (determined after applying Section 355(d)(7)) will hold stock possessing 50% or more of the total combined voting power of all classes of Controlled stock entitled to vote, or 50% or more of the total value of shares of all classes of Controlled stock, that was either (i) acquired by purchase (as defined in Section 355(d)(5) and (8)) during the 5-year period (determined after applying Section 355(d)(6)) ending on the date of the Controlled Distribution or (ii) attributable to distributions on Distributing stock that was acquired by purchase (as defined in Section 355(d)(5) and (8)) during the 5-year period (determined after applying Section 355(d)(6)) ending on the date of the Controlled Distribution.
- (jjj) The Controlled Distribution is not part of a plan or series of related transactions (within the meaning of Reg. §1.355-7) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50% or greater interest (within the meaning of Section 355(d)(4)) in Distributing or Controlled (including any predecessor or successor of any such corporation).

- (kkk) The total fair market value of the assets transferred to Controlled by Distributing will equal or exceed the aggregate adjusted basis of the transferred assets.
- (lll) The total fair market value of the assets transferred to Controlled by Distributing will exceed the sum of the total liabilities assumed (within the meaning of Section 357(d)) by Controlled.
- (mmm) The total adjusted basis of the assets transferred to Controlled by Distributing will exceed the total liabilities assumed (within the meaning of Section 357(d)) by Controlled.
- (nnn) The liabilities assumed (within the meaning of section 357(d)) by Controlled and the liabilities to which the transferred assets are subject were incurred in the ordinary course of business and are associated with the assets being transferred.
- (ooo) Distributing neither accumulated its receivables nor made extraordinary payment of its payables in anticipation of the Proposed Transaction.
- (ppp) Except for indebtedness that may be created in the ordinary course of business or in connection with the Ancillary Agreements, no indebtedness will exist between Distributing and Controlled at the time of, or subsequent to, the Controlled Distribution.
- (qqq) Immediately before the Controlled Distribution, items of income, gain, loss, deduction, and credit will be taken into account as required by the applicable intercompany transaction regulations (see Reg. §§1.1502-13 and 1.1502-14 in effect before the publication of T.D. 8597, 1995-2 C.B. 147, and as currently in effect; Reg. §1.1502-13 as published by T.D. 8597). Further, any excess loss account of a member in the stock of another member that is required to be taken into account by Reg. §1.1502-19 will be included in income, as appropriate.
- (rrr) Payments made in connection with all continuing transactions, if any, between Distributing and Controlled will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.
- (sss) Neither Distributing nor Controlled is an investment company as defined in Section 368(a)(2)(F)(iii) and (iv).
- (ttt) Immediately after the Controlled Distribution (taking into account Section 355(g)(4)), either (i) neither Distributing nor Controlled will be a disqualified investment corporation (within the meaning of Section 355(g)(2)), or (ii) no person will hold a 50% or more interest (within the meaning of Section 355(g)(3)) in the stock of Distributing or Controlled that such person did not hold immediately before the Controlled Distribution.

(uuu)Distributing and Controlled will each pay their own expenses, if any, incurred in connection with the Proposed Transaction.

(vvv)The classes of Distributing stock that track certain operations each is stock of Distributing for federal income tax purposes.

RULINGS

Based solely on the information submitted and the representations set forth above, we rule as follows with respect to:

Business Y Newco Distribution

1. The contribution of the stock of Sub10, Sub11, and Sub12 (collectively the “Business Y Corporations”) by Sub1 to Business Y Newco followed by the distribution of Business Y Newco stock to Distributing, will be a reorganization within the meaning of Section 368(a)(1)(D). Sub1 and Business Y Newco will each be “a party to a reorganization” within the meaning of Section 368(b).
2. Sub1 will recognize no gain or loss on the contribution of the Business Y Corporations, solely in exchange for shares of Business Y Newco (361(a)).
3. Business Y Newco will recognize no gain or loss on the contribution of the Business Y Corporations (Section 1032(a)).
4. Business Y Newco’s basis in the stock of the Business Y Corporations received from Sub1 will equal the basis of such stock in the hands of Sub1 immediately before their contribution to Business Y Newco (Section 362(b)).
5. Business Y Newco’s holding period in the stock of the Business Y Corporations received from Sub1 will include the period during which Sub1 held such stock (Section 1223(2)).
6. Sub1 will recognize no gain or loss on the Business Y Newco Distribution (Section 361(c)(1)).
7. Distributing will recognize no gain or loss (and will include no amount of income) on the receipt of the Business Y Newco stock in the Business Y Newco Distribution (Section 355(a)(1)).
8. Distributing’s holding period of the stock of Business Y Newco received in the Business Y Newco Distribution will include the holding period of the stock of Sub1 on which the Business Y Newco Distribution is made, provided that the

Sub1 stock is held as a capital asset on the date of the Business Y Newco Distribution (Section 1223(1)).

Business Z Newco Distribution

9. The transfer of the Business Z business assets to Business Z Newco, followed by the distribution of the Business Z Newco stock to Distributing, will be a reorganization within the meaning of Section 368(a)(1)(D). Sub1 and Business Z Newco will each be “a party to a reorganization” within the meaning of Section 368(b).
10. Sub1 will recognize no gain or loss on the transfer of the Business Z business assets to Business Z Newco in exchange for shares of Newco and the assumption by Business Z Newco of certain operating liabilities associated with the Business Z business assets transferred (Sections 357 and 361(a)).
11. Business Z Newco will recognize no gain or loss on the transfer of the Business Z business assets (Section 1032(a)).
12. Business Z Newco’s basis in the assets received from Sub1 will equal the basis of such assets in the hands of Sub1 immediately before their transfer to Business Z Newco (Section 362(b)).
13. Business Z Newco’s holding period in the assets received from Sub1 will include the period during which Sub1 held such assets (Section 1223(2)).
14. Sub1 will recognize no gain or loss on the Business Z Newco Distribution (Section 361(c)(1)).
15. Distributing will recognize no gain or loss (and will include no amount of income) on the receipt of the Business Z Newco Stock in the Business Z Newco Distribution (Section 355(a)(1)).
16. Distributing’s holding period of the stock of Business Z Newco received in the Business Z Newco Distribution will include the holding period of the stock of Sub1 on which the Business Z Newco Distribution is made, provided that the Sub1 stock is held as a capital asset on the date of the Business Z Newco Distribution (Section 1223(1)).

Business Y Newco Distribution and Business Z Newco Distribution

17. Distributing’s basis in the stock of Business Y Newco and Business Z Newco received in the Business Y Newco Distribution and Business Z Newco Distribution, respectively, will equal the basis of the Sub1 stock held by

Distributing immediately before the Business Y Newco Distribution and Business Z Newco Distribution, allocated between the Sub1 stock, the Business Y Newco Stock, and the Business Z Newco stock in proportion to the fair market value of each in accordance with Sections 358(a)(1), 358(b), and 358(c) and Treas. Reg. §1.358-2(a)(2).

18. Sub1, Business Y Newco, and Business Z Newco will allocate their earnings and profits in accordance with Section 312(h) and Treas. Reg. §§1.312-10(a) and 1.1502-33(e)(3).

Controlled Contribution and Controlled Distribution

19. The Controlled Contribution, followed by the Controlled Distribution, will be a reorganization within the meaning of Section 368(a)(1)(D). Distributing and Controlled will each be “a party to a reorganization” within the meaning of Section 368(b).
20. Distributing will recognize no gain or loss on the Controlled Contribution and the Debt Assumption (Sections 357 and 361(a)).
21. Controlled will recognize no gain or loss on the Controlled Contribution (Section 1032(a)).
22. Controlled’s basis in the assets received from Distributing in the Controlled Contribution will equal the basis of such assets in the hands of Distributing immediately before their contribution to Controlled (Section 362(b)).
23. Controlled’s holding period in the assets received from Distributing in the Controlled Contribution will include the period during which Distributing held such assets (Section 1223(2)).
24. Distributing will recognize no gain or loss on the Controlled Distribution (Section 361(c)(1),(2)).
25. The Distributing shareholders will recognize no gain or loss (and will include no amount of income) on the exchange of a portion or all of their Distributing stock in the Controlled Distribution (Section 355(a)(1)).
26. Distributing shareholder’s basis in the stock of Controlled received in the Controlled Distribution will equal the basis of the Distributing stock that such shareholder surrenders in exchange therefore (Section 358(a)(1)).
27. Distributing shareholder’s holding period of the stock of Controlled received in the Controlled Distribution will include the holding period of the Distributing stock that such shareholder surrenders in exchange therefore, provided that the Distributing

shareholder held such Distributing stock as a capital asset on the date of the Controlled Distribution (Section 1223(1)).

28. Distributing and Controlled will allocate their earnings and profits in accordance with Section 312(h) and Treas. Reg. §§1.312-10(a) and 1.1502-33(e)(3).

CAVEAT

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

PROCEDURAL STATEMENTS

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

Sincerely,

Alfred C. Bishop, Jr.
Branch Chief, Branch 6
(Corporate)